

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 736
Tuesday, October 14, 1997, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle Cooper Dunham White, Chair	Turnbo	Beach Huntsinger Stump	Ballentine, Code Enforcement Parnell, Code Enforcement Romig, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, October 10, 1997, at 2:29 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair White called the meeting to order at 1:04 p.m.

MINUTES:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** the minutes of September 9, 1997, (No. 734).

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** the minutes of September 23, 1997, (No. 735).

NEW APPLICATION

Comments and Questions:

Mr. Beach requested that Item No. 11 of the Agenda, Case No. 17845, be moved to the top of the Agenda. He explained that the Interested Party is deaf and requires an interpreter.

Case No. 17845

Action Requested:

Special Exception to allow church and accessory uses and a Special Exception to allow a pre-school in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 2, located 5717 East 32nd Street South.

Presentation:

The applicant, **Stephen P. Regouby**, represented by **Jerry Wade**, 5708 East 31st Street, submitted a site plan (Exhibit I-1) and a case map (Exhibit I-2). Mr. Wade stated the church is located on 31st Street and 32nd Street. The subject property is Lot 11 and the reason the church is interested in the subject property is because of recent growth and parking deficiencies. He explained that the church has purchased residences along the subject area and would like to use the subject property for a classroom for a children's learning school for the deaf and hard of hearing, as well as a Sunday School classroom.

Comments and Questions:

Mr. Bolzle asked the applicant what the days and hours of operation will be for the school for the deaf? Mr. Wade stated that the pre-school will operate five days a week.

Jim Doherty, 616 South Boston, stated that the pre-school will operate basically eight hours a day, but there will be times when there will be late classes. The pre-school is requesting 7:00 a.m. to 7:00 p.m., although most times the school will be finished by 5:00 p.m. Since the children have special needs and the staff will have special needs there will be times that the classes will need to go past 5:00 p.m. There is only one single-family residence immediately in the area and the church has a very good relationship with the neighbor. The access for the pre-school will primarily be from the existing church parking lot. Mr. Doherty did point out that the handicap access will need to be off of 32nd Street. The building is adequate to handle the pre-school and the Department of Human Services will regulate the number of children allowed in the building. He indicated that the usual City and State regulations will apply to the pre-school.

Mr. White asked the applicant if the church has discussed their plans with the neighborhood? Mr. Doherty stated that Al Proo has visited with the neighbors as an on going practice and is well acquainted with the neighborhood.

Mr. Bolzle asked the applicant if the prior application approval had conditions relative to screening, access and parking? Mr. Wade stated there were conditions made with the prior approval and the church plans to use their own parking area. He indicated that the church is sensitive to the neighborhood.

In response to Mr. Bolzle, Mr. Wade stated that the pre-school does have a van and will need to access 32nd Street to pick-up and drop-off children. The traffic generated from the pick-up and drop-off will be light.

Interested Parties:

Ms. Tirey, 3123 South Hudson, stated that her property is west of the subject property. She asked what limitations would there be on accessory uses? Ms. Tirey expressed concerns with signage for the pre-school. She stated that she hoped that there would not be large signs allowed.

Comments and Questions:

Mr. Romig stated that it would be up to the Board to decide what limits would be placed on the accessory uses based upon the principal use. The Board would have to place any conditions upon the use deemed necessary.

Mr. Bolzle stated that the accessory use would be any use that would be traditionally associated with a church. The Board would have to find that the pre-school is an accessory use to the church and not a commercial enterprise.

Mr. Wade stated that there would not be any large signs installed in the area.

Mr. Doherty stated that there will be a small identification sign for the pre-school, but nothing of a commercial nature. The desire is to preserve the residential character in the subject area.

Interested Parties:

Kirby Hodges, President of the Board for Happy Hands, stated that Happy Hands is a non-profit pre-school. There will be no extra signage for the pre-school other than the small identification sign. Mr. Hodges stated he fully supports the Director of Happy Hands, Al Proo. He indicated that Happy Hands has been considerate of the neighborhood and will cooperate with any problems that may need to be resolved.

Applicant's Rebuttal:

Mr. Wade stated that the church and pre-school would be sensitive to the neighborhood. He informed the Board that the church has cleaned up the homes and improved the neighborhood.

Comments and Questions:

Mr. Dunham asked the applicant if the church operates the pre-school? Mr. Wade stated that Happy Hands is an outreach of the church's ministry. He indicated that Al Proo is the director of the pre-school and would like to use the church's property to house the pre-school. The church feels that it is a natural outreach of their ministry.

Mr. Dunham asked the applicant if he would have problems with the parking restrictions as previously approved? Mr. Wade stated he had no problems with the conditions, but they will need to have the pick-up and drop-off access off of 32nd Street. He requested that the van be allowed to park in the driveway.

Mr. Bolzle asked the applicant what the occupancy would be for the pre-school? Mr. Wade stated that the pre-school would have 40 children.

In response to Mr. Bolzle, Mr. Doherty stated that 40 children would be the maximum and the Department of Human Services may restrict the number, as well as, City Building Codes. He indicated that Happy Hands would request the maximum allowable under the restrictions. Mr. Doherty stated that the normal impact of a childcare center with 40 children would be severe, but this is deaf education program for preschoolers not a daycare center.

Mr. Bolzle stated he was concerned with the signage, Mr. Doherty suggested the Board restrict the signage to wall signage for ID purposes only. He indicated a small 6 SF or 8 SF wall sign would be sufficient.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow church and accessory uses and a Special Exception to allow a pre-school for deaf children in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 2, per plan submitted; subject to the lot being accessed from the existing church property except for drop-off and pick-up, and parking for a van; subject to all activities continuing no later than 9:00 p.m.; no other parking on the southern portion of the subject property (front yard of subject property); subject to the dwelling remaining residential in nature and no other exterior changes being made; subject to wall signage no greater than 8 SF; subject to the property being tied to the adjacent lot and the church property; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lot 11, Block 2, Lorraine Heights, an addition to the City of Tulsa, Tulsa County, Oklahoma.

UNFINISHED BUSINESS

Case No. 17816

Action Requested:

Special Exception to permit church use. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 2; a Variance of required parking from 183 to 87. **SECTION 1202.D. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES** and a Variance to permit required parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. GENERAL REQUIREMENTS**, located 1101 East Apache

Presentation:

The applicant, **Alvin L. McCreary**, represented by **Jim Doherty**, 616 South Boston, submitted a site plan (Exhibit A-1) and stated that after reviewing the original site plan, the church realized that they had access to more property than was previously shown. He informed the Board that the church could provide 108 required parking spaces and would like to modify their request from 87 to 108. Mr. Doherty concluded with a request for approval of the two variances and the special exception per plan submitted.

Comments and Questions:

In response to Mr. Dunham, Mr. Doherty stated that the requirement is one required parking space for every 35 SF of sanctuary area. He stated that the proposed square footage requires 151.6 required parking spaces and the church is not able to provide enough parking spaces. He indicated that there are 18 additional parking spaces on Norfolk that are not counted in the required parking spaces. He stated that the 18 parking spaces on Norfolk are presently being used.

Mr. Bolzle asked the applicant what the proposed hardship is that creates this need? Mr. Doherty stated that the hardship is the development pattern and the platting of the lots in the proximity to the arterial in this area with regard to the historic development. The subject area was originally platted into small lots and to do any re-development of any type would be difficult to do on a 50' lot plus provide adequate parking.

Mr. Doherty stated that since the church is adjacent to the arterial, the impact on the neighborhood is minimal.

In response to Mr. Bolzle, Mr. Doherty stated that there is street parking on Norfolk and none on Apache.

Mr. Bolzle asked if the church draws from the neighborhood? Mr. Doherty stated that the church is essentially a neighborhood church or the subject area.

Case No. 17816 (continued)

Mr. White asked Mr. Beach if the September 28, 1997 site plan is the correct plan? Mr. Beach answered affirmatively.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit church use. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 2; a **Variance** of required parking from 183 to 108. **SECTION 1202.D. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES** and a **Variance** to permit required parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. GENERAL REQUIREMENTS**; per plan submitted on September 28, 1997; subject to the parking being tied to the site plan submitted on September 28, 1997; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lots 16-18, Block 1, Asheton Heights Addition, AND Lots 1-3, Block 3, of Ware Housing Addition AND Lot 1, Block 1, of Banfield Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17829

Action Requested:

Special Exception to permit storage of vehicles on gravel surfaces other than an all-weather surface. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located 12215 East 61st Street.

Presentation:

The applicant, **John Petreikis/Waste Management, Inc.**, 12215 East 61st Street, submitted a letter to amend the request (Exhibit B-1) and stated that he will be parking trucks on the proposed gravel surface. He explained that Waste Management currently leases the back four acres of land from Hope Lumber. He requested approval to maintain the subject property as it has been for the last 20 years, which is gravel for truck parking. Waste Management, Inc. recently added a modular office that will be temporary. He explained that he discussed his plans with the adjacent neighbor (Prism Properties) and the neighbor requested some conditions as follows: limit the variance to a one year period and limit the variance to the back four acres. Mr. Petreikis stated that there is minimal traffic and there is no fuel or maintenance on the gravel area. He explained that there are buildings on the subject site to handle the maintenance of the trucks. He concluded that he is basically requesting a one year approval of the variance and limit the special exception to the back four acres.

Case No. 17829 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolze, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit storage of vehicles on a gravel surface other than an all-weather surface. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; subject to the special exception being for a period of one year and limited to the north four acres per the legal description submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lot 1, Block 1, Boise Cascade Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 17838

Action Requested:

Variance of the required setback from centerline of Pine St. from 85' to 70.6' in order to construct an attached garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 9105 East Oklahoma Place.

Presentation:

The applicant, **Robert L. Ramey**, 9105 East Oklahoma Place, submitted a site plan (Exhibit C-1) and letter of support (Exhibit C-2). Mr. Ramey stated that he has owned the subject property for 35 years. He explained that he restores antique cars and needs a garage to store the vehicles in. He proposes a 12' x 24' two car garage for storing the antique cars. He indicated that there are several garages in the neighborhood that are within 50' to 60' of Pine Street. Mr. Ramey stated that the property values in the neighborhood have deteriorated and he does not expect the City to buy out the area for another 10 to 15 years.

Comments and Questions:

Mr. White asked the applicant if the 12' x 24' garage will hold his hobby of restoring antique cars? He stated that the 12' x 24' is all that he can afford to build at this time.

Case No. 17838 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the required setback from centerline of Pine St. from 85' to 70' in order to construct an attached garage; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 18, Block 1, Amended Plat of Van Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17839

Action Requested:

Variance of the number, height & display surface area of signage within a PUD 435, 435A, 435B and PUD 285B in an RS-3, OL & OM district. **SECTION 1103.B.2. ACCESSORY USES, GENERAL USE CONDITIONS FOR BUSINESS SIGNS**, located East of NE/c 68th & Yale.

Presentation:

The applicant, **Roy D. Johnsen**, requested for a continuance to October 28, 1997.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **CONTINUE**: Case No. 17839 to October 28, 1997, at 1:00 p.m.

Mr. White out at 1:43 p.m.

Case No. 17840

Action Requested:

Minor Special Exception for an amended site plan to add a 2708 SF pavilion. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTUE DISTRICT**, located 9610 South Garnett.

Case No. 17840 (continued)

Presentation:

The applicant, **J. Scott Baker**, 2501 South Maple Avenue, Broken Arrow, submitted a site plan (Exhibit D-1) and stated he would like to build a pavilion for picnic purposes that will be utilized by the existing church and school. He explained that the pavilion will eliminate the church from having to rent tents and awnings for their outdoor activities.

Comments and Questions:

Mr. Stump reminded the Board that the previous request was approved per site plan and this is a change in the site plan. The Board will need to re-approve the site plan.

Board Action:

On **MOTION** of **COOPER**, the Board voted 3-0-0 (Bolzle, Cooper, Dunham "aye"; no "nays" no "abstentions"; Turnbo, White "absent") to **APPROVE** Minor Special Exception for an amended site plan to add a 2708 SF pavilion. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTUE DISTRICT**; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

N/2, SE/4, Sec. 19, T-18-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17841

Action Requested:

Special Exception to amend previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, located 6727 South Sheridan Road.

Presentation:

The applicant, **Diane K. Gollnick**, was not present for the hearing.

Comments and Questions:

Mr. Bolzle asked the staff if the only difference between the amended site plan and the previously approved site plan is the addition of the 8' x 20' storage shed? Mr. Beach answered affirmatively.

Protestants:

Bob Person, 6746 South 66th East Avenue, stated he represents the homeowners that abut the subject property. Mr. Person submitted a petition (Exhibit E-1) and photographs (Exhibit E-2). He stated that all of the homeowners indicated on the petition are against the storage building. He commented that the neighborhood is not pleased with the way the church has treated them and the lack of response to their concerns. He indicated that the storage shed does not meet Code because it is actually a shipping container. He stated that there is not a single shipping container as a storage building in Park Plaza South. Mr. Person indicated that the neighbors contacted the church about the shipping container and was told by the church that it was approved to be on the subject property. Mr. Person concluded that the shipping container is an inappropriate storage building.

Comments and Questions:

Mr. White asked Mr. Person what the church stores in the storage building? He stated that the church stores a lawn tractor with fuel and various items.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **DENY** Special Exception to amend previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Legal Description: Lot 14, Block 12, Park Plaza South, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17842

Action Requested:

Special Exception to allow a manufactured home in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9, located SW/c West 8th Street & South 41st West Avenue.

Mr. White in at 1:55 p.m.

Presentation:

The applicant, **Wayne Luellen**, 4799 South 221st West Avenue, Sand Springs, submitted a site plan (Exhibit F-1) and stated he would like to park a mobile home on the subject property.

Comments and Questions:

Mr. White asked the applicant if the mobile home is already located on the subject property? He stated that the mobile home was on the subject property when he purchased the property on September 8, 1997. He explained that at the time he purchased the subject property there were no permits for the mobile home and he went to the City and received a permit. He obtained a demolition permit to tear down a burned out home on the subject property.

Mr. Dunham asked the applicant if it was his intention to have the mobile home on the subject property permanently? He answered affirmatively.

Mr. Bolze informed the applicant that he has not requested a waiver of the one year limitation for mobile homes.

Mr. White asked the applicant if there was anyone living in the mobile home presently? He answered negatively.

Interested Parties:

Charles Kappel, 311 North 65th West Avenue, stated he owns property adjacent to the subject property. He expressed concerns with the mobile home being placed within the City limits and devaluing the surrounding property. Mr. Kappel commented that he did not want the property to be rental property.

Comments and Questions:

Mr. White stated the Board received a letter from West of Main, Inc., William D. Packard, opposing the special exception to allow a manufactured home because of the revitalization plans in the subject area.

Applicant's Rebuttal:

Mr. Luellen stated that the property west of the subject property has been vacant and not mowed all summer. He indicated that the property east of the subject property has a home that is not livable. He reiterated that he has cleaned up his property and made it look presentable.

Comments and Questions:

Mr. White asked the applicant if he plans to live in the mobile home? He answered negatively.

Mr. White asked the applicant how old the existing mobile home is? He stated that the mobile home is a 70's model. He explained that he plans to remodel the mobile home and rent the subject property.

Case No. 17842 (continued)

In response to Mr. White, the applicant stated that he will move the mobile home back 25' and locate it in the center of the subject property facing east and west. He indicated that the subject property has 3 ½ acres.

Mr. Cooper asked the applicant if he would agree to the one year limitation? He answered affirmatively.

Mr. White stated that there are no other mobile homes in the immediate area. From 39th West to 43rd West there are no mobile homes. The neighborhood is a fragile neighborhood with small homes that are in need of repair, however there were some homes that were well taken care of. He expressed concerns that a mobile home introduced to the area might reverse the revitalization plans. He indicated that the existing mobile home is in definite need of repair.

Mr. Ballentine stated that the existing mobile home has been there for approximately two years.

After a lengthy discussion the Board agreed that the mobile home should only be allowed to remain on the subject property for one year. The applicant will have to come back in one year to determine if the mobile home will be allowed permanently.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow a manufactured home in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9, per plan submitted; subject to a limitation of one year; subject to tie downs and skirting; subject to the Health Department approval and a building permit; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lot 1, Block 2, Home Gardens Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17843

Action Requested:

Variance of the maximum allowable coverage of 20% of required rear yard to permit an addition to an existing detached garage. **SECTION 210.B.5. YARDS**, located 2220 South Terwilliger Avenue

Presentation:

The applicant, **Barry Suderman**, 8207 South College Avenue, submitted a site plan (Exhibit G-1) and stated he would like a variance to extend the first story of the two story garage. He explained that the homeowner's cars will not fit into the existing garage. He indicated the first story of the garage will be extended 2' to the west in the rear yard.

Comments and Questions:

Mr. Dunham asked the applicant why the extension to the existing garage could not be made into the front yard? Mr. Suderman explained that as you circle into the garage it tightens the radius and makes it difficult to get into the garage.

Mr. White asked the applicant to state the hardship for the variance requested. He stated that the project exceeds the 20% coverage in the rear yard by 40 SF.

Mr. Cooper asked the applicant if he is stating that his hardship is that it is a minor excess of the 20% coverage in the rear yard? He answered affirmatively.

Interested Parties:

Belinda Bates-Posey, stated she lives directly north of the subject property. She expressed concerns with the construction going on in her neighborhood. Ms. Bates-Posey had several questions on how to register her neighborhood with the Historical Preservation Society. She also questioned how to deal with neighbors that have built additions without permits? She indicated that she did not receive notice of today's hearing.

After lengthy discussion, the Board informed Ms. Bates-Posey that she needed to talk with her neighborhood association and discuss their plans with the Tulsa Preservation Commission.

Mr. Stump informed Ms. Bates-Posey to contact Code Enforcement or Kurt Ackerman if she feels that the neighbors have encroached onto her property.

Mr. Beach informed Ms. Bates-Posey that a notice was mailed September 29, 1997, to 2212 Terwilleger Boulevard in care of Marian E. Mills & Stephen Kent, Trustee's of the Marian E. Mills Trust. Mr. Beach stated that INCOG acquires the addresses for the property owners within 300' from the County Assessor's Office.

Mr. Stump advised Ms. Bates-Posey to contact the County Assessor's Office to correct the rolls.

Case No. 17843 (continued)

Board Action:

On **MOTION** of **COOPER**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** Variance of the maximum allowable coverage of 20% of required rear yard to permit an addition to an existing detached garage. **SECTION 210.B.5. YARDS**; per plan submitted; finding that the addition exceeds the allowable limit by a minor amount in order to accommodate vehicles that will not fit in the existing older garage; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Part Lots 25 & 26, Block 3, Terwilleger Heights, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17844

Action Requested:

Variance of the paving requirements for parking area to allow gravel with oil mix. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; located South, SE/c East Admiral Place & South 85th East Avenue.

Presentation:

The applicant, **Gary & Regina Strickland**, 231-R South 85th East Avenue, submitted a site plan (Exhibit H-1). Ms. Strickland stated she has a newly constructed automotive repair shop. She explained that the variance is for the parking area and driveway to the shop. Mr. Strickland stated that he would like to install a gravel drive with oil base binder for three years in order for the ground to setup after the construction work. He explained that with the underground utility work and the construction work the ground is soft and would not support asphalt at this time. He commented that he needed some time to recover from the construction cost before laying asphalt down for the parking area and drive to the shop. Ms. Strickland informed the Board that her home is in front of the repair shop and if there is a problem with dust she will be affected by it before anyone else.

Comments and Questions:

Mr. Dunham stated that typically you deal with new ground when you put a new building and parking in. He commented that he did not have a problem with granting the variance on a temporary basis.

Mr. Cooper asked the applicant how it would impact him if the Board reduced his request to one year? Mr. Strickland stated he could comply with one year, but financially it would be easier if he had two years to comply.

Case No. 17844 (continued)

In response to Ms. Strickland, Mr. Dunham stated that the gravel drive and parking lot is in violation of the ordinance, but the Board can waive the requirement for a short period of time.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** Variance of the paving requirements for parking area to allow gravel with oil mix. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; subject to meeting the requirements of the Code within a period of 2 years; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 3, Block 8, Day Suburban Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17846

Action Requested:

Special Exception to allow a church in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 2, located 6845 South Peoria.

Presentation:

The applicant, **Reza Fakour-Safa**, represented by **Darrell Elliott**, 8020 South Wheeling, submitted a floor plan (Exhibit J-1) and a site plan (Exhibit J-2). Mr. Elliott stated that the application is to approve a church in a strip shopping center. He explained that the church will have approximately 250 people attending.

Comments and Questions:

Mr. White asked the staff if the plan submitted meets the parking requirements? Mr. Beach answered affirmatively.

Mr. Stump informed the Board that TMAPC recently recommended church use for a vacant Walmart site around the corner from the subject property.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow a church in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 2; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

All that part of Lot 7, Sec. 6, T-18-N, R-13-E, IBM, Tulsa County, Oklahoma, according to the US Government Survey thereof, more particularly described as follows: Beg. at a point 180' S, 50' E, NW/c of said Lot 7; thence due S and parallel to the W line, for 348.00'; thence N 89°27'00" E for 350.00' to the SW/c of Block 5, Riverglenn Amended, an Addition to the City of Tulsa, Oklahoma, according to the recorded plat thereof; thence due N along the W line of said Block 5, for 498.00' to a point on the S line of E. 68th Street S.; thence S 89°27'00"W, for 180.00'; thence due S for 150.00'; thence S 89°27'00" W for 170.00' to the POB.

Case No. 17847

Action Requested:

Variance of required side yard from 5' to 3.2' to permit an addition to an existing non-conforming structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** – Use Unit 6, located 3302 East Jasper.

Presentation:

The applicant, **Stephen J. Olsen**, represented by **Michael Nolan**, 3302 East Jasper, submitted a site plan (Exhibit K-1) and stated that he and his wife would like to add a bedroom and bathroom onto the rear of the house. He explained that the current structure is over the 5' setback line and would like the addition to look the same.

Mr. White stated that he would be abstaining from Case No. 17847.

Comments and Questions:

Mr. Bolzle asked the applicant why he needed to build over the building line? He stated that in order to get the SF needed for the additional bedroom it will cross the building line. He explained that it is a tight fit between the house and the swimming pool.

Case No. 17847 (continued)

Mr. Cooper stated that the lot is an odd size.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-1 (Bolzle, Cooper, Dunham, "aye"; no "nays", White "abstention"; Turnbo "absent") to **APPROVE** a **Variance** of required side yard from 5' to 3.2' to permit an addition to an existing non-conforming structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** – Use Unit 6; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

W 52', Lot 11, Block 4, Harvard Hills, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17848

Action Requested:

Special Exception to allow church and accessory uses and a Special Exception to allow a school in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 2, located 6336 South 105th East Avenue.

Presentation:

The applicant, **Neil Erickson/Gary Sparks Co.**, 1336 East 15th Street, submitted a plat of survey (Exhibit L-1) and stated that his client is requesting a special exception to allow the use of the church on the subject property. He indicated to the Board that the accessory uses of the nursery, daycare, day camp and school are accessory uses to the church. He stated that the accessory uses will not be for commercial purposes. The K-12 school indicated on the application is a long term plan for the church. He stated that if an arterial street is brought adjacent to the subject property, then the church will build the K-12 school. He stated that the church would go through the appropriate zoning and special exceptions if the street is built.

Comments and Questions:

Mr. Bolzle asked the applicant if his client has no intention of putting the K-12 school in, unless there is a frontage road? He stated the church has a private school for their members and the zoning requires High Schools to be located on arterial roads, which is a long range plan.

Mr. Beach asked the applicant if he brought a site plan to be submitted? He stated that there has been no development plans produced at this point. He explained that the church is seeking a special exception to close on the purchase of the subject property.

Case No. 17848 (continued)

Mr. Stump stated that 105th East Avenue with a development to the south has been planned to be a freeway service road, which would connect between 61st and 71st.

In response to Mr. Bolzle, Mr. Erickson stated that the closing on the subject property is contingent upon the approval of the church use and accessory use. He explained that his client did not want to invest money into the development planning process without knowing that the special exception would be approved.

Mr. Dunham asked the applicant if his client is planning to develop the subject property immediately or wait a few years? Mr. Erickson stated that his client has a long term plan and their immediate plan is to develop the subject property as a church with the minor accessory uses.

Mr. Beach informed the applicant that if the Board approved the special exception, then his client would have to seek a building permit within three years.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow church and accessory uses and a **Special Exception** to allow a school in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 2; subject to the applicant returning with a detailed site plan; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lots 3 & 4, Block 6, Union Gardens Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17849

Action Requested:

Variance of required setback from centerline of Union. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**, a Variance to permit a structure in planned right-of-way. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS** and a Special Exception to permit a drive-in in a CS zoned district. **SECTION 704.C. SPECIAL EXCEPTION USES IN COMMERCIAL DISTRICTS, REQUIREMENTS**, located West side of Union, North of West 51st Street South.

Presentation:

The applicant, **William B. Hayes/Sack & Associates, Inc.**, represented by **Ted Sack**, 111 South Elgin, submitted a site plan (Exhibit M-1) and stated the subject property is located in an old area of town. The property has been platted and the lots are narrow, which makes it difficult to meet the standards today that were setup with the arterial street. He indicated that his client is NEO properties/Sonic Drive-in Restaurants. Most of the right-of-way along the subject area does not exist presently and the existing street is presently four lanes. He commented that he did not know of any plans to widen the existing street in the near future. There are several residential homes to the north of the subject property, as well as on the site. The setback proposed is equal with the homes to the north.

Protestants:

Leo Groden, stated he lives directly behind the proposed Sonic. Mr. Groden expressed concerns with the lights illuminating his back yard. He stated he purchased his home 35 years ago to retire in. Mr. Groden informed the Board of several locations in the immediate area that would be better suited for the proposal. He stated that there are 100 year-old trees in the area that would have to be torn out to install the drive-in. The elevation of the subject property is 5' above the residential properties and every time it rains all of the water will drain onto their land.

Marilyn Lock, 4849 South Vancouver, stated that the SE/c of her back yard abuts the subject property. She indicated that there would need to be a tall privacy fence to buffer the noise and traffic. She expressed concerns with the hours of operation and the water running onto her property. She requested that the drive-in build retaining walls or slope the property toward Union Street.

Applicant's Rebuttal:

Mr. Sack stated that his client is willing to remove the neon lights in the back of the restaurant. He indicated that there will be a 6' screening fence constructed on the rear of the property with a 5' landscaped area as required by Code.

Comments and Questions:

Mr. Bolzle asked the applicant if the Board agreed to the requested right-of-way it looks as if the building still encroaches? Mr. Sack stated he needs a variance of the setback for the building but it will not encroach on any ultimate right-of-way. He commented that the ultimate right-of-way will most likely never be accomplished because of the number of structures that exist.

Mr. Bolzle asked the applicant what the hardship is for allowing Sonic to encroach 15' into the required setback? Mr. Sack stated that the hardship is that it is an old and narrow lot, which is difficult to develop with today's standards.

Case No. 17849 (continued)

In response to Mr. Dunham, Mr. Sack stated that the subject area will be developed and landscaped similar to the 16th & Lewis Sonic, which backs up to a residential area. He indicated that he worked with the neighborhood and there have not been any complaints since the development has been completed.

Mr. Sack stated that the drainage on the subject property will be drained toward the street and away from the neighbors.

Mr. Bolzle asked the applicant if there were any variances required at 16th & Lewis for the setback? Mr. Sack stated he had a similar variance request on the right-of-way, but in that particular case it was a CH zoning and the use was allowed by right.

In response to Mr. Dunham, Mr. Sack stated that the proposed project is setting back farther than the existing houses.

Mr. Cooper asked the applicant what the hours of operation will be? He stated that the days and hours of operation are Monday through Friday, 10:00 a.m. to 11:00 p.m. and 10:00 a.m. to 12:00 a.m. on weekends.

Mr. Beach stated that it seems that there would still be some considerable amount of ambient light generated from the site and it might be worth considering requiring a row of trees in the 5' landscaping.

In response to Mr. Beach's statement, Mr. Sack stated that he could put trees in the 5' landscaped area.

In response to the suggestion of an 8' privacy fence, Mr. Sack stated that he is hesitant to install an 8' privacy fence because it begins to look like a prison.

Additional Comments:

Mr. Bolzle stated that the hardship is self-imposed, because the lot is too small to handle this development. He commented that the applicant is trying to develop too much building on too small a lot.

Mr. Cooper stated the proposed operation will be opened until midnight and the ambient light will impact the neighbors. He commented that the lot is zoned CS and there will be problems with future development because of the size of the lot.

Mr. Bolzle stated that because the subject property is zoned CS does not mean that a use has to be forced onto the property.

Case No. 17849 (continued)

Mr. Stump reminded the Board that the proposal is not a permitted use by right in the CS district. This is a more intensive use which requires a special exception. He stated that the staff is more concerned when the use is abutted next to a single-family residential area.

Mr. Bolzle stated that the 16th & Lewis site was zoned CH and the use was permitted by right.

Mr. Bolzle summarized that the subject property is different than the 16th & Lewis proposal. There is lesser zoning; the use is not allowed by right; there is a setback that the applicant cannot meet and the lot is too small.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 2-2-0 (Bolzle, Cooper, "aye"; Dunham, White "nays" no "abstentions"; Turnbo "absent") to **DENY** Variance of required setback from centerline of Union. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**, a Variance to permit a structure in planned right-of-way. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS** and a Special Exception to permit a drive-in in a CS zoned district. **SECTION 704.C. SPECIAL EXCEPTION USES IN COMMERCIAL DISTRICTS, REQUIREMENTS**; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; and finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Legal Description: S 75' of Lot 3, and N 75' of Lot 4, both in Block 2, Greenfield Acres, City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:

Mr. Romig stated that the application needs a three (3) vote and therefore the application is denied.

Case No. 17850

Action Requested:

Use Units as permitted by right under CS zoning, excluding 12a. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** – Use Units 12, 13, 14 & 19 and a Variance of frontage requirement. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**, located East 41st Street South & I-44, SE/c.

Presentation:

The applicant, **William B. Hayes, Sack & Associates, Inc.**, represented by **Ted Sack**, 111 Elgin, submitted a site plan (Exhibit N-1) and stated that the subject application has been seen twice by the Board. He explained that the original application was approved subject to a detailed site plan being approved. The site plan has changed and has been brought back before the Board. The original application was for four restaurant sites that had an access drive which came down through the middle. The original party has dropped out of the application and now there is a proposal of a large retail type use. The parcel is now in the front and the main difference that exists on the submitted site plan is that the previous site plan did not have a parcel to the west. The existing site is the old Seismograph tract and there is an existing access point that exists on the surface road, which is unusable and undesirable. He stated that his client has contracted the triangular tract, which gives his client considerably more access on the surface road. The known use is the Academy Sports and the back parcel is unknown. He stated he will return with a site plan once he knows what will go into the back parcel.

Comments and Questions:

Mr. Dunham asked the staff to clarify the staff comments with regard to uses.

Mr. Beach stated the subject property is zoned IL and the application is to permit all Use Units that are permitted by right in a CS district. Mr. Beach stated that there are some Use Units that are permitted by right in CS that are not permitted in IL and would require a Use Variance to approve the request. The Use Units the Board has the authority to approve are Use Units 12, 13, 14 & 19.

Mr. Sack stated that the Use Units 12, 13, 14 & 19 would meet his needs.

Mr. Bolzle asked the applicant if the frontage requirement is for the balance of the tract or the flag lot? Mr. Sack stated the frontage is for the flag lot.

Interested Parties:

Joe Bollinger, 6201 East 43rd, representing Postal Technologies, stated that his property line is to the south 855' and he has expressed some concerns that the south tract will not be maintained since there will not be any development on the tract. He indicated that his company has spent considerable amount of money trying to maintain security in the subject area and requested that there be some provisions made for automobiles to be prohibited from driving south on the subject property. He explained that the subject area has been deserted for approximately seven years and people drive off of 41st and across the property onto Postal Technologies' property. He stated that his company has tried to prevent this by installing fences, but they drive through the fences.

Case No. 17850 (continued)

Comments and Questions:

Mr. Bolzle asked Mr. Bollinger what type of provision did he want the applicant to make to prevent the cars driving across the property? He stated that some type of landscaping or perhaps a fence of some kind.

Applicant's Rebuttal:

Mr. Sack stated he thought the traffic issue is because of the construction on Sheridan & 41st Street. He indicated that at the rear of the property there is quite a grade differential and normal vehicles cannot go across. He stated that once the property to the rear is developed obviously there will be fences, curbing and a parking lot. He commented that once there is a tenant on the subject property some of the traffic concerns should go away. He assured the Board that the undeveloped tract will be maintained.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** Use Units as permitted by right under CS zoning, excluding 12a. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** – Use Units 12, 13, 14 & 19 and a **Variance** of frontage requirement. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code and finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

N 855', Lots 4-6, amended plat of Tulsa View Addition to the City of Tulsa, Tulsa County, Oklahoma, Less the N 25' thereof and less the following described Property taken for road purposes, to-wit: beg. at Wly line of Lot 6, said point being 97.36' S. of the NW/c thereof; thence N 48°34'30"E for 148.77', to N line of said Lot 6; thence Wly along said N line for 112.49' to the NW/c thereof; thence Sly along the Wly line of said Lot 6, for 97.36' to the POB AND A tract of land that is part of the NW/4, NE/4, Sec. 27, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, said tract of land being more particularly described as follows, to-wit: starting NE/c, NW/4, NE/4, said Sec. 27; thence due S along the Ely line of the NW/4, NE/4, Sec. 27, for 122.36' to the POB of said tract of land, said point being on the Wly line of Lot 6, amended plat of Tulsa View Addition, and addition to the City of Tulsa, Tulsa County, Oklahoma; thence S49°11'56"W for 175.00'; thence S40°48'04"E for 202.73' to a point on the Ely line of the NW/4, NE/4 and the Wly line of said lot 6; thence due N along said Ely line of the NW/4, NE/4 and the Wly line of Lot 6, for 267.82' to the POB.

Case No. 17851

Action Requested:

Special Exception to allow Use Unit 17 in a CS district (small trailer parts and sales). **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 17, a Variance to allow outdoor storage & display of merchandise offered for sale within 300' of an R district. **SECTION 1217.C. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES;** Use Conditions and a Variance of the outdoor display from an R zoned district and a waiver of the screening on N Property. **SECTION 1217.C. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES;** Use Conditions, located NE/c East Admiral Place & North Columbia.

Presentation:

The applicant, **Haroldine Hinds**, represented by **Roy Johnsen**, 201 West 5th, Suite 440, submitted a site plan (Exhibit O-1) and photographs (Exhibit O-2). Mr. Johnsen stated that the Hinds family owns four lots that extend from Admiral Place north to Admiral Court. The north two lots are zoned in a residential classification and are vacant. He explained that the south two lots are zoned CS and are also vacant. He stated that the Hinds are under contract to sell the subject property and the intended user is a small trailer and trailer parts retail operation. The proposal includes construction of a new building with access to both Columbia and Admiral Place. In 1985 the Board approved parking on the S/2 of the north two lots with a requirement that the parking area be screened along the east boundary. The new tenant does not want to screen on the residential zoning line where the north lot has been approved for parking. The new tenant proposes to move the existing screening fence to the north line of the area approved for parking and then continue the screening fence south to the point where the property becomes CS. There are residences to the north and to the west zoned CH. He stated that Use Unit 17 (automotive) would be uses permitted by right in the CH district. The ordinance states that in Use Unit 17 you cannot have any unenclosed display areas within 300' of a residential district. There are residential properties within 300' of the subject property. There will be trailers on display in front of the site and offered for sale, which would be technically within 300' of residential property to the north of the subject property. He concluded that he is requesting a special exception to permit small trailer sales and parts, modification of the screening requirements and a variance of the enclosure requirement.

Comments and Questions:

Mr. Bolzle asked the staff if the screening the applicant has described satisfies the staff's screening concerns? Mr. Bolzle stated that the applicant has proposed to screen the S/2 of the north two lots on the north, east and west side. Mr. Beach stated that the proposal would satisfy the concerns of the staff with regard to screening.

Case No. 17851 (continued)

Mr. Stump stated that the staff does have concerns with outside storage of trailers in the RS zoned area. There is no designation of where the outside storage will occur. It is not an approved use in an RS zoned portion.

Mr. Johnsen stated that the outside storage will be limited to the CS zoned portion of the property.

Mr. Bolzle stated that the application cannot be approved per plan because it does not show the fence or the parking and use on the back portion of the property.

Mr. Johnsen stated that there is a possibility that the building will be expanded, but the applicant will meet the same setbacks and will not extend into the residential zoning.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Cooper, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow Use Unit 17 in a CS district (small trailer parts and sales). **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 17; a **Variance** to allow outdoor storage & display of merchandise offered for sale within 300' of an R district. **SECTION 1217.C. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES**; Use Conditions; and a Special Exception to waive the screening requirement on the north side of property. **SECTION 1217.C. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES**; Use Conditions; subject to the applicant's screening the north, east and west boundaries of the S/2 of Lots 12 & 13 (two lots immediately north of the subject property); finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Legal Description: Lots 14 & 15, Ozarka Place Addition, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:29 p.m.

Date approved: OCTOBER 28, 1997


Chair

